

**CALIFORNIA COASTAL COMMISSION**

CENTRAL COAST DISTRICT OFFICE  
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**TH 7c**

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Staff:	RB
Staff Report:	1/26/01
Hearing Date:	2/15/01
Commission Action:	
Opened and Continued	09/14/00
Substantial Issue	11/15/00

**STAFF REPORT: REGULAR**

**Appeal Number** ..... **A-3-SLO-00-119**

**Local Government** ..... San Luis Obispo County

**Decision** ..... Approved with conditions, 047/07/00

**Applicant** ..... Joe Todd

**Appellants** ..... Commissioners Sara Wan and Pedro Nava

**Project Location** ..... 16485 Cabrillo Highway (approx. 1.5 miles north of Piedras Blanca Lighthouse, North Coast Area Plan), San Simeon (San Luis Obispo County) (APN 011-231-001)

**Project Description** ..... Construction of an approximately 2,980 sq. ft. single family dwelling with attached 720 sq. ft. garage, and 1,200 sq. ft. barn.

**File Documents** ..... San Luis Obispo County Certified Local Coastal Plan; Coastal Development Permit D990190P; COAL 90-137.

**Staff Recommendation** ..... **Denial**

**EXECUTIVE SUMMARY**

The proposed development is located on a roughly rectangular site on the portion of the property east of Highway 1, approximately 1.5 miles north of Piedras Blancas Lighthouse, San Luis Obispo County. The applicant proposes to construct an approximately 2,980 square foot, one-story, single family residence with an attached 720 square foot garage, a 1,120 square foot barn, water well and a water storage tank on a 4.37 acre site. The surrounding land is currently owned by the Hearst Corporation and is used for cattle grazing, with the exception of three vacant parcels, ranging from 3.4 to 6.4 acres, located directly south of the property.

The proposed residential development poses significant adverse impacts to visual and scenic resources because the structures are not designed to be subordinate to, or blend with, the rural character of the area. This stretch of the California coast is regarded as a

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scenic coastal resource of great public importance. Feasible alternatives exist that would result in a reconfigured project that would comply with the resource policies of the San Luis Obispo County LCP. Because such a substantial redesign of the project is necessary to bring it into conformance with the LCP, staff recommends that the Commission **deny** the coastal development permit for the project as approved by the County of San Luis Obispo.

In addition, because this area is designated for agricultural use, development of this single-family dwelling creates potential conflicts between residential and surrounding agricultural uses. Also, the proposed development is located outside the San Simeon Urban Services Line; therefore, more definitive information regarding water availability on the subject parcel should be secured. Additionally, because there are known prehistoric cultural resources in the area of the project, care should be taken to ensure that no ground disturbing activities will harm any potential archaeological resources on the site. Although these circumstances alone are not a basis for denial, a redesigned project should include remedies to address the issues as discussed in this staff report.

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## STAFF RECOMMENDATION ON COASTAL DEVELOPMENT PERMIT

Staff recommends that the Commission, after the public hearing, **deny** coastal development permit application A-3-SLO-00-119.

**MOTION:** *I move that the Commission approve Coastal Development Permit No. A-3-SLO-00-119 as approved by San Luis Obispo County.*



Staff recommends a **NO** vote. Failure to pass this motion will result in denial of the permit and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

### **RESOLUTION TO DENY THE PERMIT:**

The Commission hereby denies a coastal development permit for the proposed development on the ground that the development will prejudice the ability of the local government having jurisdiction over the area to carry out a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

### **RECOMMENDED FINDINGS AND DECLARATIONS**

#### **A. Visual Resources**

The property is located approximately 1.5 miles north of Piedras Blancas Lighthouse, away from urban development and is within a more rural setting (within the Agriculture Land Use Category) on the North Coast of San Luis Obispo County. The parcel is approximately 4.37 acres (1,155 feet long and 165 feet wide) and slopes up gradually from Highway 1.

Policy 1 for Visual and Scenic Resources states in relevant part:

*Unique and attractive features of the landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved, protected, and in visually degraded areas restored where feasible.*

Policy 2 for Visual and Scenic Resources addresses site selection for new development:

*Permitted development shall be sited so as to protect views to and along the ocean and scenic coastal areas. Wherever possible, site selection for new development is to emphasize locations not visible from major public view corridors. In particular, new development should utilize slope created "pockets" to shield development and minimize visual intrusion.*

Policy 4 for Visual and Scenic Resources applies to new development in rural areas:

*New development shall be sited to minimize its visibility from public view corridors. Structures shall be designed (height, bulk, style) to be subordinate to, and blend with, the rural character of the area. New development which cannot be sited outside of public view corridors is to be screened utilizing native vegetation; however, such vegetation, when mature, must also be selected and sited in such a manner as to not obstruct major public views.*



Finally, Policy 5 for Visual and Scenic resources addresses grading and landform alteration:

*Grading, earthmoving, major vegetation removal and other landform alterations within public view corridors are to be minimized. Where feasible, contours of the finished surface are to blend with adjacent natural terrain to achieve a consistent grade and natural appearance.*

North Coast Area Plan Standard for Site Design and Building Construction addresses site selection criteria for lands outside of urban and village reserve lines.

**1. Site Selection.** *Primary site selection for new development shall be locations not visible from Highway 1 as follows:*

- a. Sites shall be selected where hills and slopes would shield development unless no alternative location exists or the new development provides visitor-serving facilities.*
- b. New development shall be located so that no portion of a structure extends above the highest horizon line of ridgelines as seen from Highway 1.*
- c. Where single ownership is on both sides of Highway 1, building sites shall be located on the east side of Highway 1 except for identified visitor-serving development.*
- d. Development proposals for sites with varied terrain are to include design provisions for concentrating developments on moderate slopes, retaining steeper slopes visible from public roads undeveloped.*

The applicant has proposed, and the County approved, a residence and barn located on the least visible portion of the parcel, at the eastern end of the property, approximately 800 feet from the highway. A large knoll is located to the north of the property, which helps shield the proposed residence from view of southbound travelers; however, the entire property is visible from northbound Highway 1. The proposed single-story residence is approximately 15'7" in height and the applicant has proposed landscaping that will help screen the project from northbound travelers. The barn, which is approximately 1,120 square feet and 15'6" in height, is located behind the residence and will not be shielded by the proposed landscape screening.

The project site, as well as the three vacant parcels immediately to the south of the site, are surrounded by the vast open spaces of the approximately 77,000 acre Hearst Ranch. The scenic character of this area is defined by rolling hills and wide coastal terraces vegetated with grasses and low growing, shrubby plants that turn green and gold with the seasons. Major vegetation like the pine and oak forests found elsewhere in the San Luis



Obispo Coastal Zone are not a part of the natural landscape along this portion of the north coast although some trees have been planted over the years to provide shade and act as wind breaks. Exhibit 3 depicts the open character of this area. This entire sweep of open, rolling hillsides and unspoiled landscape against the majestic backdrop of the Santa Lucia Mountains can be viewed by the public in a continuously unfolding panorama along Highway 1. Indeed, there is perhaps no reach of coast in California that is more visually sensitive than the North Coast of San Luis Obispo. This southern gateway to Big Sur is a powerful landscape of incomparable and stunning beauty that is extremely vulnerable to degradation by new development because of its open character, long vistas and lack of natural screening vegetation. The Commission recognized this most recently during its review of the San Luis Obispo County North Coast Area Plan Update (approved May 13, 1998), finding that the North Coast is “regarded as a scenic coastal resource of great public importance.” The findings go on to observe the following in regard to the character of Hearst Ranch and the surrounding area:

*These views are often said to illustrate what “Old California” looked like before it was developed and urbanized. Even a relatively small amount of visible modern development would under these circumstances be intrusive, and would significantly degrade the sense of an essentially innocent landscape.*

There is no question that the current development proposal would significantly impact the scenic quality of the rural and rugged North Coast. As shown in Exhibits 3 and 6, the proposed development would be located in the middle of an undeveloped, open expanse of agricultural lands west of Highway 1 typical of this stretch of coast. The potential for three similar proposals immediately south of the project site raises concerns about the cumulative impact of development and its associated landscaping and landform alteration on this coastal terrace. Although some development can be seen from Highway 1 in this general area (i.e. Piedras Blancas Motel, Hearst Ranch residence), these buildings were constructed prior to adoption of the Coastal Act. They also provide evidence of the visual impacts that can result from inappropriately designed development in this sensitive area. (See, for example, the photos of the motel in Exhibit 6.) Moreover, given the scenic nature of this stretch of coast, it is that much more important to limit any additional development that would break up expansive views of the rolling hillsides and incrementally degrade the rural character of the North Coast. Thus, the greatest possible effort must be put forth to safeguard this area from the intrusions of new development.

Policy 2 for Visual and Scenic Resources and the North Coast Area Plan Standard regarding site selection serve to protect the unique qualities of scenic areas and prohibit the siting of development, where possible, in areas visible from public view corridors. As stated previously, the residence is located in the least visible portion of the site, consistent with this LCP policy and Planning Area Standard. Thus, in terms of visual resource impacts, the Commission does not raise issue with the general *area* currently proposed for development.



However, as required by Policy 4 for Visual and Scenic Resources, “new development shall be sited to minimize its visibility from public view corridors” and the structures in that area “shall be designed to be subordinate to, and blend with, the rural character of the area.” In addition, Policy 1 for Visual and Scenic Resources requires that the scenic rural landscape of the North Coast be preserved and protected. Policy 4 also allows for the use of native vegetative screening to shield development *so long* as it does not obstruct major public views, but only after all efforts have been exhausted to site the development outside of public view corridors.

In the context of the rural agricultural North Coast, conformance with the visual policies of the LCP is best achieved without reliance on unnatural vegetation such as the Cypress or Eucalyptus trees that have been planted as windbreaks on other lots in the past.<sup>1</sup> The controlling objective of Policy 4 is to design new structures so as to be subordinate to and blend with the landscape. Policy 1 requires the protection of unique landscapes. Given the existing landscape, substantial unnatural vegetative screening around a residential structure would still constitute a significant intrusion into the North Coast rural character, particularly if alternatives exist for structural design that would not require significant vegetation screening.

The Applicant has recently submitted a visual analysis that illustrates this concern. (Please see Exhibit 6.) The analysis includes three photos of the same view of the site from Highway One (existing landform, existing landform with proposed structures, existing landform with proposed structures and vegetative screening). The depiction of the proposed dwelling screened by trees shows how the natural, open grassland landscape will be altered by the incongruous placement of a line of trees leading up from Highway One up to an unnatural appearing grove of trees encircling the house site. This screening, because it uses plant materials that are not generally seen in the context of this open landscape, serves to focus the viewers eye on this site rather than provide a setting that causes the proposed development to recede into the landscape and be visually unobtrusive and subordinate to its setting. An additional problem with the use of trees as screening material is that with age, the tree canopy that provides the most effective screening will often grow above the structures it was designed to obscure. The structures at that point become visible once again. (See, for example, Exhibit 6 showing the existing farmhouse to the south of this property surrounded by mature Cypress trees.) However, while the LCP also requires that landform alteration be minimized, it does allow such alteration if done in way to blend with adjacent natural terrain (Visual Policy 5). As discussed below, siting and design options that rely on natural-looking berms, rather than vegetative screening, best

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<sup>1</sup> A small number of young, short Cypress, approximately 4, are on the Applicant’s property directly adjacent to Highway One. (See Exhibit 6.) The unnatural effect of these few trees would be greatly amplified if the linear rows of a large number of Cypress in the middle of this open, grassy parcel were allowed as directed by the County-approved project design.



meet the intent the LCP Visual Resource policies for this particular portion of the San Luis Obispo coastline.

As proposed, the residence and barn are approximately 15'6" in height. Vegetative screening is proposed to help shield the residence from view of northbound travelers on Highway 1; however, the barn will be fully exposed to these viewers, and potentially in partial view of southbound travelers. It should be acknowledged that the applicant and the County have worked toward minimizing the visual impacts of the development itself, including the use of lower-house design, appropriate colors, and vegetative screening as a mechanism to shield the residence from public viewing areas. Nonetheless, these measures are not adequate to ensure that the extremely sensitive rural viewshed of the North Coast will forever be preserved to the maximum extent feasible. Every reasonable effort must be made to assure that new development in this area is truly subordinate to, and blended with the rural landscape. Again, although vegetation can be effective in some instances, when used in areas such as the vast, rolling hillsides and grasslands found along this stretch of coast, it may create an unnatural look and has an impact, equivalent to that of a structure, on the visual and scenic qualities of this area. The Commission also notes that the design and material used in the driveway to the building site as presently proposed will blend into the landscape during the dry periods of the year when the hills are golden brown but will be obtrusive during the season when the hills are green. (See Exhibit 6.) The use of a paving material, such as turf block, that allows for this seasonal color change may be worthy of consideration in a re-designed project.

There is no question that Visual Policy 4 of the San Luis Obispo LCP sets a high standard for protection of the extreme visual sensitivity of the North Coast. A traditional house design such as that proposed by the applicant does not readily blend in with, nor is it subordinate to, the rural character of the area. Thus, the project as currently proposed is not consistent with Visual Policies 1 and 4. However, alternative home designs are available that would at once minimize the intrusion of unnatural structures and vegetation into this environment and that also allow for reasonable single family living. For example, a berm of approximately 6 feet in height could be constructed on the applicant's parcel, behind which a residence could be hidden from view. Based on analysis of existing contours on and around the project site, a six-foot high berm with slopes of 10-15% would not significantly detract from the surrounding landscape and is feasible to construct on the site. In conjunction with a lowered site grade of approximately 4-5 feet, this berm height limit would allow for construction of a house of reasonable height while meeting the objective of subordinating development to the rural character of the area. Although landform alteration would be required, such alteration, if done appropriately to blend in with existing contours, would be preferable to unnatural vegetative screening.

More innovative and attractive home designs are also possible that would meet the LCP requirement of blending with the rural character of the North Coast. In particular, it is feasible to design and construct "earth-sheltered housing" that is essentially "bermed" houses (or banked with earth). A bermed structure may be above grade or partially below



grade, with outside earth surrounding one or more walls. Both types usually have earth-covered roofs, and some of the roofs may have a vegetation cover to reduce erosion.<sup>2</sup> The combination of natural, sod-roof treatments, and lowered grade is an innovative means of shielding development from critical viewsheds and building in complete accord with nature. Such techniques have been used along the California coast, including along the Big Sur Coast where the Commission has previously approved single family residences that incorporated earthen or vegetated roofs to minimize impacts to visual resources in this highly scenic area (Salomon (P-77-0581), Chase (P-77-0689), Gold (3-83-203)).

In light of the extreme visual sensitivity of the North Coast, the Commission finds that such innovative approaches to home design are necessary yet reasonable measures to meet the high standards of the County's LCP. Only through such design can the visual resources be "preserved and protected." Such designs also maximize the extent to which new development will blend in with the environment and be subordinate to the rural character of the North Coast unlike the design of the proposed project.

The Commission therefore finds that the project approved by the County does not comply with the visual resource policies discussed in the preceding paragraphs and the project must be denied. The Commission notes that feasible alternatives, some of which have been discussed in these Findings, exist for redesigning the proposed home that would result in a project that would meet the applicants objectives of locating a home on the site and would also comply with the applicable LCP policies

## **B. Agriculture**

The property is one of four small (3.5 to six acres) clustered parcels surrounded by large agricultural parcels (Hearst Ranch), all within the Agricultural land use category. This area has historically been used for grazing; however, fences now delineate these four smaller lots and prevent the movement of cattle onto these parcels. Because the applicant is proposing a residential (non-agricultural) use on agricultural land, Policy 3 for Agriculture is applicable.

***Policy 3 for Agriculture: Non-Agricultural Uses.*** *Non-agricultural development shall meet the following requirements:*

- d. The proposed use will result in no adverse effect upon the continuance or establishment of agricultural uses on the remainder of the site or nearby and surrounding properties.*
- e. The development...includes a means of securing the remainder of the parcel(s) in agricultural use through agricultural easements. As a condition of approval of non-agricultural development, the county shall require the applicant to assure that the remainder of the parcel(s) be retained in agriculture...by the following methods:*

<sup>2</sup> U.S. Department of Energy (Consumer Energy Information: EREC Fact Sheets) "Earth-Sheltered Houses."





***Agricultural Easement.*** *The applicant shall grant an easement to the county over all agricultural land shown on the site plan. This easement shall remain in effect for the life of the non-agricultural use and shall limit the use of the land covered by the easement to agriculture, non-residential use customarily accessory to agriculture, farm labor housing and a single-family home accessory to the agricultural use.*

Single family residences are a special, principally permitted land use on non-prime soils in the Agriculture land use category. Therefore, such a development is subject to special criteria regarding the siting of structures. In addition, because this is a non-agricultural use proposed in an area that has been, and is currently, used for cattle grazing, adequate measures to protect on-site agricultural activities, as well as those of the surrounding properties, shall be put into place.

Pursuant to CZLUO Section 23.04.024, the minimum size for grazing lands is 320 acres. Clearly, the five-acre parcel does not meet this minimum parcel size. Nonetheless, the LCP requires the applicant to record a deed restriction that prohibits future land divisions. and requires the applicant to grant an agricultural easement to the county over all agricultural land on the property, as required by Policy 3(e) for Agriculture. In addition, the disturbance envelope on the site should be limited to that necessary to support the residential use, so as to minimize impacts on adjacent agricultural lands.

Due to the limited width of the parcel, the residence will be in close proximity to adjacent agricultural uses. To minimize potential conflicts between surrounding agricultural operations and the proposed residential development, the applicant should record a “Right to Farm” statement consistent with Policy 3(d) for Agriculture as a component of future non-agricultural development proposed for the site. “Right to Farm” statements put current and future landowners on notice that the property and home are adjacent to land used, or planned to be used, for agricultural purposes and discloses the consequences of residing near existing and potential agricultural operations (e.g. dust, noise, odors, agricultural chemicals).

The County, in their action on this Coastal Development Permit application, failed to require the agricultural easement, the deed restriction relevant to future land divisions, and the recordation of the “Right to Farm” statement as directed by the LCP policies cited above. The County also did not analyze the effect of the proposed building site on adjacent agricultural uses as required by Policy 3 (d). For these reasons, the County approved project is inconsistent with the Agricultural Policies of the LCP. It is anticipated that these issues can be resolved through additional analysis, the consideration of alternative project designs, and the incorporation of additional permit conditions if necessary. Nonetheless, in light of the fundamental unresolved issues regarding inconsistency of the proposed project with the visual resource protection policies of the LCP, the project must be denied.



## C. Water

Applicable LCP Policy and Ordinance:

**Public Works Policy 1:** *New development shall demonstrate that adequate public or private service capacities are available to serve the proposed development.... Permitted development outside the USL shall be allowed only if it can be serviced by adequate private on-site water and waste disposal systems.*

**CZLUO Section 23.04.430:** *Development outside the urban service line shall be approved only if it can be served by adequate on-site water and sewage disposal systems...*

San Luis Obispo County LCP Public Works Policy 1 and CZLUO Section 23.04.430 require new development to demonstrate that adequate public or private service capacities are available to serve the proposed development. The proposed development is located outside the San Simeon Urban Services Line and thus must comply with the policies cited above. The Applicant has provided information regarding wells on adjacent property that indicates adequate water is most likely also available on the subject property in an amount sufficient to support the proposed development. In addition to this data on the water issue, the Applicant has submitted the results of test borings and soils analysis for the installation of the septic system that will be used for on-site waste disposal. The author of the report states that “*Based upon current County of San Luis Obispo Standards, the performance test results are adequate for effluent disposal by the leach line method in the area tested.*” (Mid Coast Geotechnical Inc., Report prepared by Dane Jensen, RCE and dated 11/30/00) Evidence of County Environmental Health Division approval of the well and septic system has not, however, been provided. Therefore, this aspect of the proposed development appears to be generally consistent with the cited LCP policies and ordinance; however, a redesigned project should include more definitive information regarding water availability on the subject parcel and County approval of the well and septic system.

## D. Archaeology

Applicable LCP Policy regarding Archaeological Resources:

**Policy 1 for Archaeology: Protection of Archaeological Resources.** *The county shall provide for the protection of both known and potential archaeological resources. All available measures, including purchase, tax relief, purchase of development rights, etc., shall be explored at the time of a development proposal to avoid development on important archaeological sites. Where these measures are not feasible and development will adversely affect identified archaeological or paleontological resources, adequate mitigation shall be required.*



An archaeological surface survey was conducted for the parcel (Singer, October 12, 1999). Although no evidence of prehistoric cultural resources were noted during the survey, there are two known sites in the immediate area. The County did not adequately address the potential for archeological resources on the subject parcel because it did not require the Applicant to have a qualified archaeologist present to monitor all ground disturbing activities and prepare and implement mitigation measures, if any resources are found below the surface of the site. Therefore, a redesigned project should ensure that such monitoring will occur in order to be consistent with the LCP.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. As discussed herein, a coastal development permit for the Todd residence cannot be approved because there are feasible, alternative designs for a home on this site that are substantially less environmentally-damaging. Furthermore, potential adverse impacts on adjacent agricultural lands have not been adequately analyzed or mitigated in compliance with CEQA requirements.

